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FILED
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JAMES H. MCKENNEY,
Clerk.

In the Supreme Court of the United States.

OCTOBER TERM, 1902.

THE UNITED STATES, APPELLANT,
v.
THE SPANISH SMACK "PAQUETE HABANA," JUAN PASOS, claimant. } No. 578.

THE UNITED STATES, APPELLANT,
v.
THE SPANISH SCHOONER "LOLA," TOMAS BETANCOURT, claimant. } No. 579.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

MOTION TO ADVANCE.

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These cases in prize, representative of the group known as the Fishing Smack Cases, have already been before the court on the question of condemnation (175 U. S., 677). The decree of this court restored to the claimant, with compensatory damages and costs, the proceeds of the sale of the vessels. After further proceedings below under said decree, the cases are now again before the court upon appeal by the United States.

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Two questions are presented, namely, whether the *quantum* of damages allowed is excessive, and whether the United States or the naval captors are liable.

The other cases in the group, presenting the same questions on substantially the same record, with differences merely as to the ownership, value, etc., of the particular vessel, will necessarily abide the result in the two cases selected for argument, although no stipulation to this effect has been made.

I submit a motion to advance for hearing at this term or early next term, in which counsel for the claimants concurs, for the following reasons:

The questions are not only of private right, but are public and international in their nature. They affect, on the one hand, citizens of another nation, who, for that reason, and because of their calling, are to be regarded under the previous judgment of this court as entitled to especial consideration, which may be shown by prompt determination of their claims. The questions involve, on the other hand, the principle of prize law that not the capturing government, but the naval captors individually, are responsible in damages when a seizure has been made without probable cause and damages have been allowed. This liability, cast by the law, as the Government will contend, upon meritorious officers whose error was due to ignorance and not malice, should also be promptly determined in order to apprise them with as little delay as possible of the sums with which they are severally chargeable; or, on the other hand, to relieve them seasonably from

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doubt and the burden of the liability if the court shall be of opinion that the Government itself is liable.

For these reasons I respectfully submit that the motion should be granted, subject to the convenience of the court.

JOHN K. RICHARDS,
Solicitor-General.

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